

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 23215 of 2004(L)

PETITIONERS:

1. JANAKI PADMANABHAN,
W/O. LATE PADMANABHAN, AGED 65 YEARS,
PALAMPARAMBIL, CHERTHALA KIZHAKKUMURI,
KOKKOTHAMANGALAM.
2. RADHAMANI P.J., D/O. LATE PADMANABHAN,
PALAMPARAMBIL, CHERTHALA KIZHAKKUMURI,
KOKKOTHAMANGALAM.
3. P.J.SHOBHANAMMA, D/O. LATE PADMANABHAN,
PALAMPARAMBIL, CHERTHALA KIZHAKKUMURI,
KOKKOTHAMANGALAM.
4. P.J.RATNAMMA, D/O. LATE PADMANABHAN,
PALAMPARAMBIL, CHERTHALA KIZHAKKUMURI,
KOKKOTHAMANGALAM.
5. SHEELAKUMARI, D/O. LATE PADMANABHAN,
PALAMPARAMBIL, CHERTHALA KIZHAKKUMURI,
KOKKOTHAMANGALAM.
6. P.LEJIMON, S/O. LATE PADMANABHAN,
PALAMPARAMBIL, CHERTHALA KIZHAKKUMURI,
KOKKOTHAMANGALAM.
7. P.J.YAMUNADEVI,
D/O. LATE PADMANABHAN, PALAMPARAMBIL,
CHERTHALA KIZHAKKUMURI, KOKKOTHAMANGALAM.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SMT.SONIYA.M

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RESPONDENTS:

1. THE PRESIDENT, S.N.D.P.SAKHA YOGAM
NO.120, THALAYAZHAM, VAIKOM.
2. THE SECRETARY, S.N.D.P. SAKHA YOGAM
NO.120, THALAYAZHAM, VAIKOM.
3. THE TEREASURER, S.N.D.P. SAKHA YOGAM
NO.120, THALAYAZHAM, VAIKOM.

BY ADV. SRI.V.G.ARUN for R1 & R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WPC.NO.23215/2004 L

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE JUDGMENT DTD. 26/11/1965 IN O.S.NO.4/1964 ON THE FILE OF THE MUNSIFF COURT, VAIKOM.**
- EXT.P2: COPY OF THE FINAL DECREE DTD. 23/12/1996 IN O.S.NO.4/1964 ON THE FILE OF THE MUNSIFF COURT, VAIKOM.**
- EXT.P3: COPY OF THE ORDER DISMISSING THE FINAL DECREE APPLICATION FILED BY THE DECEASED ANKAN PADMANABHAN DTD. 2/12/1972 IN O.S.NO.4/1964 BY THE LEARNED MUNSIFF, VAIKOM.**
- EXT.P4: COPY OF I.A.NO.819/2003 IN CMA NO.52/2003 FILED BY THE PETITIONERS BEFORE THE DISTRICT COURT, KOTTAYAM DTD. 3/04/04.**
- EXT.P5: COPY OF THE ORDER IN I.A.NO.819/2003 IN CMA NO.52/2003 BY THE DISTRICT COURT, KOTTAYAM DTD. 7/04/04.**
- EXT.P6; COPY OF THE ORDER DTD. 28/10/1997 IN S.M.NO.70/1993 PASSED BY THE LAND TRIBUNAL, KOTTAYAM.**

/TRUE COPY/

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PIUS C. KURIAKOSE, J.

W.P.(C) NO. 23215 OF 2004

Dated this the 4th day of July 2007

JUDGMENT

Ext.P5 order of the District Judge dismissing the application for condonation of long delay of 30 years, five months and 20 days in the matter of filing a Civil Miscellaneous Appeal against Ext.P3 final decree application is under challenge in this proceedings under Article 227 of the Constitution. The ground on which the petitioners sought condonation of delay was that their predecessor who is party to Ext.P3 had been seriously ill and incapacitated from moving about and attending to his daily chores during the period from 15.11.1972 to 14.7.1996, the day when he allegedly passed away. The above ground was strongly denied by the respondents. The evidence on the side of the petitioners was Ext.A1 medical certificate dated 7.4.2003 issued by an Ayurvedic physician and testimony of that physician. Though the respondents did not adduce any counter oral evidence, they produced Exts.B1 to B7 which would establish that the claim of the petitioners that late P.K.Padmanabhan was

completely bed ridden during the period from 15.11.1972 till 14.7.1996 was incorrect because Ext.B3, B4, B5 and B7 are copies of documents which will indicate that during the period from 1985 to 1992 Padmanabhan was very actively pursuing other litigations in other fora of law.

2. I have gone through Ext.P5 in full. The learned District Judge has given excellent reasons as to why he is exercising the discretion conferred on him under Section 5 of the Limitation Act. against the petitioners. It cannot be said that the findings of the learned District Judge are erroneous. Those findings are based on materials and circumstances. I have no difficulty to endorse the learned District Judge's view that the petitioners are presenting a false case. In any view of the matter there is no warrant at all for set aside Ext.P5 particularly under supervisory jurisdiction of this court, which is not to be invoked each and every case.

The Writ Petition is dismissed. No costs.

PIUS C. KURIAKOSE,
JUDGE.

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